

## REMARKS

In the Office Action, the Examiner rejected Claims 1-16 as anticipated by U.S. Patent No. 6,146,396 to Konya et al. Independent claims 1, 12 and 15 have been amended. Dependent claims 6, 8 and 9 have also been amended. Claims 1-2, 4, 6-13, 15 and 16 remain in this application. Claims 3, 5, and 14 have been canceled without prejudice or disclaimer. Claims 17 and 18 have been withdrawn from consideration.

The Konya patent is directed to a declotting device. The embodiment of Figure 5 of Konya referred to by the Examiner, is similar to Konya's embodiment of Figure 4, except for the deformable jacket covering the deformable members 30. The deformable members, as explained with respect to Figure 4, are moved by adjusting the distance of portions 22 and 24. This is achieved by sliding catheter 12 relative to member 14. Clips 32 and 34 secure the plurality of deformable members and are coupled to the catheter such as by crimping or other means (see col. 9, lines 55-60). Guidewire 15 is fixed relative to member 14 or slidable in relation to member 14.

The present invention of claim 1 is not anticipated by Konya. First, Konya is directed to a declotting apparatus and not to a distal protection device comprising a filter material. Second, amended claim 1 recites a catheter having a sidewall and a slot formed in the sidewall. The catheter 12 of Konya does not have a sidewall slot. The entire region where the loops are positioned is removed. Third, the Konya device has a plurality of deformable members. Claim 1 recites a single wire member which forms the two looped section, thus simplifying the device.

Consequently, for at least these reasons, the rejection of claim 1 as anticipated should be withdrawn. Claims 2, 4 and 6-11 depend from claim 1 and are therefore believed patentable for at least the same reasons as claim 1.

Similarly, claim 12 recites a distal protection device with a filter material, a catheter with a sidewall slot and a single wire extending laterally therethrough forming first and second loops. Therefore, for the same reasons as explained above with respect to claim 1, the rejection of claim 12 should likewise be withdrawn. Claim 13 depends from claim 12 and is therefore believed patentable for at least the same reasons as claim 12.

Claim 15 recites inter alia a distal protection device comprising a catheter and a flexible member positioned and movable from a first position to a second looped position

extending laterally with respect to the catheter, such that in the second looped position a loop opening is formed lying in a plane that is non-aligned with a longitudinal axis of the catheter. The flexible member is movable between the first and second positions by user control. The filter material is self-retracting and is movable from an original collapsed position to an expanded position in response to movement of the flexible member. The filter material automatically moves from the expanded position to the original collapsed position upon movement of the flexible member back to the first position.

The Konya patent does not teach or suggest these features. In Figure 5 of Konya, movement of portions 22 and 24 expand and contract deformable members which in turn moves jacket 16 which covers the deformable members. In contrast, in the invention recited in claim 15, the filter material of the distal protection device, due to its self-retraction, automatically moves from its expanded position to the original collapsed position when the wire is retracted. The advantage of this feature is explained on page 11 of Applicants' specification, describing how it avoids the need for insertion of a separate device over the membrane to cover it for removal. Consequently, for at least these reasons, claim 15 is believed patentable over Konya and the rejection should be withdrawn.

Claim 16 depends from claim 15 and is therefore believed patentable for at least the same reasons as claim 15.

Prompt and favorable reconsideration of the present application is respectfully requested. The Examiner is invited to contact the undersigned should the Examiner believe it would expedite prosecution.

Respectfully submitted,

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